APPENDIX

California Agricultural Proration Act [Stats. 1933, p. 1969; amended by Stats. 1935, pp. 1526, 2087].

Section 1. The unreasonable waste of agricultural wealth occasioned by the harvesting, preparation for market and delivery to market of greater quantities of agricultural commodities than are reasonably necessary to supply the demands of the market is opposed to the public interest and the difficulty inherent in any attempt by individuals to correlate within a reasonable degree the supply of any agricultural commodity to current consumptive demands is creating chaotic economic conditions in certain agricultural areas of the State of such severity as to imperil the ability of agricultural producers to contribute in appropriate amounts to the support of ordinary governmental and educational functions, thus tending to increase and increasing the tax burdens of other citizens for the same purposes. In the interest of the public welfare and general prosperity of the State, the unnecessary and unreasonable waste of agricultural wealth, hereinafter referred to as "agricultural waste," involved in the harvesting or preparation for and delivery to market of agicultural commodities for which there exists only a limited consumer demand should be eliminated while at the same time preserving to all agricultural producers an equality of opportunity in the available markets. [Amended by Stats. 1935, p. 1527.]

Sec. 2. As used in this act:

(a) The term "person" includes any individual, firm, association or corporation.

(b) The term "agricultural waste"—in addition to their ordinary meaning—shall include economic waste, and waste incident to the harvesting and/or preparation for any delivery to market of agricultural commodities in excess of reasonable market demands.

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(d) The terms "proration zone" or "zone" mean any district or districts with respect to which a program of market proration is proposed to be or has been instituted.

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(l) The term "owner" means the person in possession of agricultural commodities and legally entitled to dispose of the same for marketing purposes.

(m) The term "proration" means the uniform percentage of their total production which all producers may harvest and prepare for market and/or market.

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Sec. 8. An agricultural prorated marketing program may be based either upon a producing zone or upon a market zone, the basis to be specified in the petition therefor. A program for the prorated marketing of a variety or kind of agricultural commodity may be initiated by presenting a petition therefor to the commission. Such petition shall indicate whether it is proposed that such program be instituted by an order of the commission or by an election by qualified producers.

The said petition shall, among other things contain:

(1) A legal description of the district or districts comprising the zone upon which the proposed marketing program is to be based, together with a map thereof.

(2) A general statement of facts showing the necessity for the institution of a prorated marketing program.

(3) If such petition propose an election by qualified producers, the signatures of not less than fifty qualified producers of said kind or variety of agricultural commodity within the proposed producing zone or supplying the proposed market zone, as the case may be, shall be sufficient. If such petition propose that a program be instituted by order of the commission, the signatures of not less than two-thirds of the qualified producers of said kind or variety of agricultural commodity and of the owners of not less than fifty-one per cent of the producing factors within the proposed producing zone or supplying the proposed market zone, as the case may be, shall be required. Wilful misrepresentation of any fact in signing such petition shall be unlawful.

There shall also be filed with said petition a good and sufficient undertaking to be approved by the commission, in double the amount of the probable cost of conducting the hearing of the petition by the commission, conditioned that the sureties will pay all such costs in case the petition be denied.

The signatures to said petition may be either in person or by duly authorized agent or representative. Any nonprofit cooperative marketing agency or any cooperative, or other agricultural marketing agency may sign such petition if specifically authorized by the producers for whom such cooperative,

nonprofit cooperative or agricultural marketing agency purports to sign; provided, however, such authorization shall be by an instrument other than the marketing contract or shipping contract.

In the case of horticultural or viticultural products, each producer shall be entitled to sign for the number of producing factors specified in the petition, which he produced during the preceding season, or, in the case of vegetable products or livestock and poultry and their products, the producing factor shall be based upon the actual acreage planted or livestock owned or the products thereof produced at the time he signs the petition.

It shall be a misdemeanor to obtain or prevent signatures to any petition by threats to curtail credit, call loans, refuse to purchase crops or by any other form of coercion whatsoever.

Certificates of county agricultural commissioners as to the number of producers, acres or other producing factors engaged in the production of any variety or kind of commodity in their respective counties shall be prima facie evidence of the facts therein stated. [Amended by Stats. 1935, p. 1530.]

Sec. 9. Upon the receipt of a petition for the establishment, annexation or termination of a prorate program, the commission shall hold a hearing at some central point located within the district described in said petition and proposed to be established as a proration marketing zone. The names and addresses of all producers claimed by petitioners as being producers shall be filed and opened to public inspection by any interested party not less than twenty days prior to the hearing in the agricultural

commissioner's office in each county or portion thereof in the proposed zone. Notice of such hearing shall be given at least ten (10) days prior thereto by publication in a newspaper of general circulation printed and published in each county affected and by posting in at least ten (10) conspicuous places in said district. In case the proposed proration zone includes more than one district the required notice shall be given in each district and the commission shall hold hearings in each of said districts. At said hearings the commission shall receive and hear the evidence offered by the petitioners in support of the petition and by any interested person in opposition thereto.

All evidence and exhibits and all facts and data used directly or indirectly by the commission, or introduced at a hearing, shall within a reasonable time after being so used or so introduced be available at a central point to all interested parties.

Said hearings may be adjourned from time to time and from place to place as the circumstances may require. A transcript of the proceedings at all such hearings shall be made by the commission and shall be opened to inspection by any interested party.

If no paper is published in such district, then said notice shall be published in such paper as is published in the county and has general circulation in such district. [Amended by Stats. 1935, p. 1532.]

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Sec. 11. If it shall be alleged in said petition that it is signed by two-thirds or more of the producers of the commodity named in the petition within or serving the zone described, and by the owners of fifty-one percent or more of the producing fac-

tors within or serving said zone, proof shall be required in support of such allegation and the commission shall make a finding with respect thereto. If it shall find such allegation to be the fact, and shall find to exist all of the other facts specified in section 10 of this act, the commission shall forthwith make an order declaring the proposed program instituted and specifying the zone in which the program shall be effective. [Amended by Stats. 1935, p. 1533.]

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Sec. 17. Any order of the commission instituting a proration program and any other order of the commission substantially affecting the rights of any interested party may be reviewed by any court of competent jurisdiction. Any such action must be commenced within thirty days after the effective date of the order complained of or within thirty days after the injurious effect complained of. [Amended by Stats. 1935, p. 1535.]

Sec. 18. In the event of the institution of a marketing program in a proration zone, it shall be the duty of the commission to forthwith select a proration program committee of five producers and two handlers operating within the zone. The producer members of said program committee shall be chosen by the commission from a group of fifteen nominees who are to be nominated by the producers. The commission in the selection of the program committee, shall take cognizance of and, in so far as possible, give representation upon such committee to the various geographical areas or districts coming under the proration program. No producer member of the program committee shall be a handler or processor or an em-

ployee or officer of a handler or processor, except that a nonprofit cooperative organization may be represented by officers or directors who are producers, providing that no more than three such producer members of the prorate program committee shall be members of the same nonprofit cooperative organization. In the case of commodities, the bulk of which is processed before consumption, one of the producer members of said program committee shall be a processor. In the event that the commission shall be of the opinion that a committee of seven will not afford adequate representation to all of the factors in the industry concerned, it may appoint a program committee of six producers and three handlers provided said producers are selected from the list of nominees selected by the growers as provided for herein. The members of such program committee shall not be entitled to compensation but may be reimbursed their actual and necessary traveling expenses. Such prorating program may be altered or modified from time to time by such committee.

Upon request of petitioners for the institution of a program or of a program committee therefore, the commission shall also appoint in the same manner as the program committee was appointed an alternate for each member of the committee. Such alternate shall be entitled to sit as a regular member of the committee in case the member for whom he is an alternate fails for any reason to attend any meeting of the committee.

Vacancies on the program committee occasioned by the death or resignation of any member, or by removal for incompetency or inattention or neglect of duties as a member

of the program committee by the commission, or by a member ceasing to qualify as a producer or handler of the commodity concerned, shall be filled in the same manner as the original appointments were made.

The program committee shall appoint an agent, who shall administer the proration program under the direction of the program committee and who may be removed from office in the same manner as he was appointed.

Pending action by the commission on the approval of any such agent, he shall act as such and shall appoint such deputy agents and other assistants as may be necessary to properly direct the program. Such agent shall appoint such deputy agents and other assistants as may be necessary to direct the program which appointments shall be subject to the approval of the program committee. The salary and/or compensation received by the secretary shall not exceed the sum of five thousand dollars ($5,000) per annum from all sources and no officer or employee shall receive compensation based on a percentage of volume involved in a prorate program, or in any manner that would lend encouragement to the promotion of a proration program for the purpose of increasing salaries and income. [Amended by Stats. 1935, p. 2088.]

Note.—This section was also amended earlier during the same session of the Legislature. See Stats. 1935, p. 1536.

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Sec. 19.1. In any marketing program approved by the commission, a program committee shall be empowered to determine the method, manner and extent of proration and the movement of the prorated commodity

from harvest into a primary channel of distribution. Proration may be periodic or seasonal in character and may be based upon actual production, whether in storage or otherwise, or upon estimated production. The estimated production shall be subject to revision by the program committee in accordance with crop and market conditions. In estimating production a program committee shall give consideration, among other factors, to the normal production of the various producing units. The program committee, for the purpose of minimizing the effect of existing surpluses upon market conditions, shall be empowered in any or all of the following particulars:

(a) To establish and maintain surplus pools which shall be authorized to receive from each producer from time to time his surplus of the prorated commodity and market the same by grades for the account of the producer when it can be advantageously disposed of either in its original or some converted state: provided, however, such surplus shall not be marketed in any form which would directly compete with that part of the crop which is regularly certificated; and provided, further, that any part of any such surplus may be turned over by a program committee to charitable organizations, self-help cooperatives, and similar agencies under proper safeguards to prevent any part of the commodity so disposed of from directly competing with the part of the crop marketed through the usual channels of trade. In operating any such surplus pool, a program committee may fix grading, packing, and servicing charges to be assessed against such com-

modities received by the pool and requiring such handling. The program committee shall handle all commodities received by a surplus pool and account for the same on a pooled basis. Each producer delivering his surplus to a pool shall be credited for his proportionate share of the surplus so delivered.

(b) To create, establish or otherwise obtain and operate facilities for the grading, packing, servicing, processing, preparing for market and disposal of such surplus in such manner as to maintain stability in the markets and to sell such surplus and/or any of its derived products.

(c) To appoint and empower subcommittees in the separated producing areas within the zone to facilitate the carrying out of the purposes of this act.

(d) To collaborate and cooperate with agencies or organizations with similar purposes, whether of this State, other States or of the United States, in the formulation and execution of a common marketing program; provided, that in proper cases the commission may require such collaboration and cooperation.

(e) To minimize an existing surplus by cooperating with the proper agencies in the enforcement of applicable existing standardization or other laws of this State, and of the United States, enacted to protect the consuming public from fraud or deception.

(f) To create, maintain and disburse an equalization fund to be used for the removal of any inequalities between producers as to the total volume marketed

through prorated channels resulting from errors in estimating production or surplus.

The cost of the exercise of such powers as are herein granted to the program committee shall be a part of the cost of the operation of the program and shall be obtained through fees in the same manner as other costs of the program. [New section added by Stats. 1935, p. 1537.]

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